
HOUSE BILL No. 1274

DIGEST OF INTRODUCED BILL

Citations Affected: IC 20-8.1-4.

Synopsis: Working conditions and hours for minors. Authorizes an employer to employ a child less than 18 years of age beginning at 6 a.m. on school days and until midnight on certain nights. Deletes certain provisions pertaining to the hours and conditions of employment of employees less than 18 years of age. Changes the requirements for rest breaks for children who are employees. Provides that a child less than 18 years of age working between the hours of 10 p.m. and 6 a.m. must be accompanied during those hours by another employee at least 18 years of age if the establishment is open to the public, and that a violation is a hazardous occupation violation by the employer.

Effective: July 1, 2003.

Weinzapfel

January 13, 2003, read first time and referred to Committee on Labor and Employment.

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First Regular Session 113th General Assembly (2003)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2002 Regular or Special Session of the General Assembly.

HOUSE BILL No. 1274

A BILL FOR AN ACT to amend the Indiana Code concerning labor and industrial safety.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 20-8.1-4-20, AS AMENDED BY P.L.234-1999,
2 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2003]: Sec. 20. (a) This section applies only to occupations for
4 which a child who is fourteen (14) years of age or older and less than
5 eighteen (18) years of age must obtain an employment certificate under
6 this chapter.
7 (b) As used in this section, "nonschool week" refers to a week that
8 contains two (2) or less school days.
9 (c) As used in this section, "school day" refers to a day that contains
10 more than four (4) hours of classroom instruction.
11 (d) As used in this section, "school week" refers to a week that
12 contains three (3) or more school days.
13 (e) The following apply only to a child who is at least fourteen (14)
14 years of age and less than sixteen (16) years of age:
15 (1) The child may not work before 7:00 a.m. or after 7:00 p.m.
16 However, the child may work until 9:00 p.m. from June 1 through
17 Labor Day.



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(2) The child may not work:

- (A) more than three (3) hours on a school day;
- (B) more than eighteen (18) hours in a school week;
- (C) more than eight (8) hours on a nonschool day; or
- (D) more than forty (40) hours in a nonschool week.

(f) A child who is at least sixteen (16) years of age and less than ~~seventeen (17)~~ **eighteen (18)** years of age may not:

- (1) work for more than eight (8) hours in any one (1) day;
- (2) work for more than thirty (30) hours in any one (1) week;
- (3) work for more than six (6) days in any one (1) week; or
- (4) begin a work day before 6:00 a.m. **on a school day.**

~~(g) A child who is at least seventeen (17) years of age and less than eighteen (18) years of age may not:~~

- ~~(1) work for more than eight (8) hours in any one (1) day;~~
- ~~(2) work for more than thirty (30) hours in any one (1) week;~~
- ~~(3) work for more than six (6) days in any one (1) week; or~~
- ~~(4) begin a work day before 6:00 a.m. on a school day.~~

~~(h) (g) A child who is at least sixteen (16) years of age and less than eighteen (18) years of age may work until 10:00 p.m. on nights that are followed by a school day. in any occupation except those which the commissioner of labor determines to be dangerous to life or limb or injurious to health or morals.~~

~~(i) (h) An employer may employ a child who is at least sixteen (16) years of age and less than ~~seventeen (17)~~ **eighteen (18)** years of age to work until midnight if~~

~~(1) the work will be performed:~~

- ~~(A) (1) during a nonschool week; or~~
- ~~(B) (2) on days that are not followed by a school day. and~~

~~(2) the employer has~~

- ~~(A) obtained written permission from a child's parent or legal guardian and~~
- ~~(B) placed the written permission on file in the employer's office.~~

~~(j) An employer may employ a child who is at least sixteen (16) years of age and less than eighteen (18) years of age up to forty (40) hours during a school week if the employer has:~~

- ~~(1) obtained written permission from a child's parent or legal guardian; and~~
- ~~(2) placed the written permission on file in the employer's office.~~

~~(k) If an employer has obtained written permission required under subsection (j),~~

(i) During a nonschool week, the an employer may employ a child

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who is at least sixteen (16) years of age but less than eighteen (18) years of age for periods that do not exceed a total of nine (9) hours in any one (1) **nonschool** day and a total of forty-eight (48) hours in any one (1) nonschool week.

(~~h~~) A child who is seventeen (17) years of age or older but less than eighteen (18) years of age may work until 11:30 p.m. on nights that are followed by a school day if the employer has obtained written permission from the child's parent or legal guardian and placed the permission on file in the employer's office. A child covered by this subsection may work until 1 a.m. the following day if the employer has obtained written permission from the child's parent or legal guardian and placed the permission on file in the employer's office. However, the nights followed by a school day on which a child works until 1 a.m. the following day may not be consecutive and may not exceed two (2) nights per week.

(~~m~~) (j) Children who are sixteen (16) years of age or older and less than eighteen (18) years of age may be employed the same daily and weekly hours and at the same times of day as adults if they fit into any one (1) of the following categories:

(1) They are a high school graduate.

(2) They have completed an approved vocational or special education program.

(3) They are not enrolled in a regular school term.

SECTION 2. IC 20-8.1-4-20.5, AS ADDED BY P.L.122-2001, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 20.5. (a) ~~Except as provided in subsection (b);~~ This section applies to occupations for which a child less than eighteen (18) years of age may be employed or allowed to work under this chapter but does not apply to children subject to:

(1) section 2 of this chapter; or

(2) section ~~20(m)(2)~~ **20(j)(2)** or ~~20(m)(3)~~ **20(j)(3)** of this chapter.

(~~b~~) This section does not apply to a child less than eighteen (18) years of age employed by a camp or other facility that:

(~~1~~) provides an opportunity, either gratuitously or for compensation, for outdoor group living for all or any part of a day;

(~~2~~) provides recreational, health, educational, or sectarian related activities; and

(~~3~~) is operated by a nonprofit entity.

(~~c~~) (**b**) A person, firm, limited liability company, or corporation that employs a child less than eighteen (18) years of age shall provide ~~a one~~ **(1) or two (2) rest break of breaks totaling** at least thirty (30) minutes

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to a child who is scheduled to work at least six (6) consecutive hours.

(d) The rest break must be available to the child during the time beginning three (3) hours after and ending five (5) hours after the child begins the child's period of duty.

SECTION 3. IC 20-8.1-4-25.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 25.5. (a) This section does not provide an exception to the hours a child is permitted to work under section 20 of this chapter.**

(b) It is unlawful for a person, firm, limited liability company, or corporation to permit a child who is:

(1) less than eighteen (18) years of age; and

(2) employed by the person, firm, limited liability company, or corporation;

to work after 10 p.m. and before 6 a.m. in an establishment that is open to the public unless another employee at least eighteen (18) years of age also works in the establishment during the same hours as the child.

(c) A violation of subsection (b) is a hazardous occupation violation subject to section 31(a)(6) of this chapter.

SECTION 4. IC 20-8.1-4-31, AS AMENDED BY P.L.122-2001, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 31. (a) A person, firm, limited liability company, or corporation that violates this chapter may be assessed the following civil penalties by the department of labor:**

(1) For an employment certificate violation under section 1 or 13 of this chapter, the following:

(A) A warning letter for any violations identified during an initial inspection.

(B) Fifty dollars (\$50) per instance for a second violation identified in a subsequent inspection.

(C) Seventy-five dollars (\$75) per instance for a third violation that is identified in a subsequent inspection.

(D) One hundred dollars (\$100) per instance for a fourth or subsequent violation that:

(i) is identified in an inspection subsequent to the inspection under clause (C); and

(ii) occurs not more than two (2) years after a prior violation.

(2) For a posting violation under section 23 of this chapter, the following:

(A) A warning letter for any violations identified during an initial inspection.

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- 1 (B) Fifty dollars (\$50) per instance for each violation
 2 identified in a subsequent inspection.
 3 (C) Seventy-five dollars (\$75) per instance for a third violation
 4 that is identified in a subsequent inspection.
 5 (D) One hundred dollars (\$100) per instance for a fourth or
 6 subsequent violation that:
 7 (i) is identified in an inspection subsequent to the inspection
 8 under clause (C); and
 9 (ii) occurs not more than two (2) years after a prior violation.
 10 (3) For a termination notice violation under section 11 of this
 11 chapter, the following:
 12 (A) A warning letter for any violations identified during an
 13 initial inspection.
 14 (B) Fifty dollars (\$50) per instance for each violation
 15 identified in a subsequent inspection.
 16 (C) Seventy-five dollars (\$75) per instance for a third violation
 17 that is identified in a subsequent inspection.
 18 (D) One hundred dollars (\$100) per instance for a fourth or
 19 subsequent violation that:
 20 (i) is identified in an inspection subsequent to the inspection
 21 under clause (C); and
 22 (ii) occurs not more than two (2) years after a prior violation.
 23 (4) For an hour violation of not more than thirty (30) minutes
 24 under section 20 of this chapter, the following:
 25 (A) A warning letter for any violations identified during an
 26 initial inspection.
 27 (B) Fifty dollars (\$50) per instance for each violation
 28 identified in a subsequent inspection.
 29 (C) Seventy-five dollars (\$75) per instance for a third violation
 30 that is identified in a subsequent inspection.
 31 (D) One hundred dollars (\$100) per instance for a fourth or
 32 subsequent violation that:
 33 (i) is identified in an inspection subsequent to the inspection
 34 under clause (C); and
 35 (ii) occurs not more than two (2) years after a prior violation.
 36 (5) For an hour violation of more than thirty (30) minutes under
 37 section 20 of this chapter, the following:
 38 (A) A warning letter for any violations identified during an
 39 initial inspection.
 40 (B) One hundred dollars (\$100) per instance for each violation
 41 identified in a subsequent inspection.
 42 (C) Two hundred dollars (\$200) per instance for a third

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violation that is identified in a subsequent inspection.

(D) Four hundred dollars (\$400) per instance for a fourth or subsequent violation that:

(i) is identified in an inspection subsequent to the inspection under clause (C); and

(ii) occurs not more than two (2) years after a prior violation.

(6) For a hazardous occupation violation under section 25 **or 25.5** of this chapter, the following:

(A) A warning letter for any violations identified during an initial inspection.

(B) One hundred dollars (\$100) per instance for each violation identified in a subsequent inspection.

(C) Two hundred dollars (\$200) per instance for a third violation that is identified in a subsequent inspection.

(D) Four hundred dollars (\$400) per instance for a fourth or subsequent violation that:

(i) is identified in an inspection subsequent to the inspection under clause (C); and

(ii) occurs not more than two (2) years after a prior violation.

(7) For an age violation under section 21 or 21.5 of this chapter, the following:

(A) A warning letter for any violations identified during an initial inspection.

(B) One hundred dollars (\$100) per instance for each violation identified in a subsequent inspection.

(C) Two hundred dollars (\$200) per instance for a third violation that is identified in a subsequent inspection.

(D) Four hundred dollars (\$400) per instance for a fourth or subsequent violation that:

(i) is identified in an inspection subsequent to the inspection under clause (C); and

(ii) occurs not more than two (2) years after a prior violation.

(8) For each minor employed in violation of section 21(b) of this chapter, the following:

(A) A warning letter for any violations identified during an initial inspection.

(B) One hundred dollars (\$100) per instance for each violation identified in a subsequent inspection.

(C) Two hundred dollars (\$200) per instance for a third violation that is identified in a subsequent inspection.

(D) Four hundred dollars (\$400) per instance for a fourth or subsequent violation that:

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- 1 (i) is identified in an inspection subsequent to the inspection
- 2 under clause (C); and
- 3 (ii) occurs not more than two (2) years after a prior violation.
- 4 (9) For each violation of section 20.5 of this chapter, the
- 5 following:
- 6 (A) A warning letter for any violations identified during an
- 7 initial inspection.
- 8 (B) One hundred dollars (\$100) per instance for each violation
- 9 identified in a subsequent inspection.
- 10 (C) Two hundred dollars (\$200) per instance for a third
- 11 violation that is identified in a subsequent inspection.
- 12 (D) Four hundred dollars (\$400) per instance for a fourth or
- 13 subsequent violation that:
- 14 (i) is identified in an inspection subsequent to the inspection
- 15 under clause (C); and
- 16 (ii) occurs not more than two (2) years after a prior violation.
- 17 (b) A civil penalty assessed under subsection (a):
- 18 (1) is subject to IC 4-21.5-3-6; and
- 19 (2) becomes effective without a proceeding under IC 4-21.5-3
- 20 unless a person requests an administrative review not later than
- 21 thirty (30) days after notice of the assessment is given.
- 22 (c) For purposes of determining whether a second violation has
- 23 occurred when assessing a civil penalty under subsection (a), a first
- 24 violation expires one (1) year after the date of issuance of a warning
- 25 letter by the department of labor under subsection (a).
- 26 (d) For purposes of determining recurring violations of this section,
- 27 each location of an employer shall be considered separate and distinct
- 28 from another location of the same employer.
- 29 (e) There is established an employment of youth fund for the
- 30 purpose of educating affected parties on the purposes and contents of
- 31 this chapter and the responsibilities of all parties under this chapter.
- 32 One-half (1/2) of the fund each year shall be used for the purpose of the
- 33 education provision of this subsection. This portion of the fund may be
- 34 used to award grants to provide educational programs. The remaining
- 35 one-half (1/2) of the fund shall be used each year for the expenses of
- 36 hiring and salaries of additional inspectors to enforce this chapter under
- 37 section 29 of this chapter. All inspectors hired to enforce this chapter
- 38 shall also be available to educate affected parties on the purposes and
- 39 contents of this chapter and the responsibilities of all parties under this
- 40 chapter. The fund shall be administered by the department of labor.
- 41 The expenses of administering the fund shall be paid from money in
- 42 the fund. The treasurer of state shall invest the money in the fund not

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1 currently needed to meet the obligations of the fund in the same
2 manner as other public funds may be invested. Interest that accrues
3 from these investments shall be deposited in the fund. Money in the
4 fund at the end of a state fiscal year does not revert to the state general
5 fund. Revenue received from civil penalties under this section shall be
6 deposited in the employment of youth fund.

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